

**Summary of Eighth Negotiation Session on
New Water Supply Agreement**

Date of Session: May 19, 2003
Place: Santa Rosa Laguna Pumping Plant
Time: 9:00 AM – Noon

Parties Present and Represented:

Cities: Cotati, Petaluma, Rohnert Park, Santa Rosa, Sonoma, and Windsor.
Districts: North Marin, Marin Municipal, Sonoma County Water Agency, and Valley of the Moon Water District.

Attachment A contains complete list of attendees.

Opening Public Comment

Chris Sliz, acting for chairman Miles Ferris and Interest Based Negotiation facilitator, opened the meeting inviting public comment. There was none.

Voting Method

Voting represents the consensus of the ten parties (Cotati, Petaluma, Rohnert Park, Santa Rosa, Sonoma, Windsor, Forestville Water District, North Marin Water District, Marin Municipal Water District (MMWD) and Valley of the Moon Water District). Each of the ten has one vote to cast pursuant to the rule adopted by the WAC at its meeting of September 9, 2002, namely:

- Decision making style: Consensus (defined as all parties agreeing they are either (a) for an issue (thumbs up), (b) can live with it (thumbs horizontal) or (c) opposed (thumbs down). Vote results are reported when taken as (a/b/c).
- If parties can't come to consensus, table the issue and deal with it at the end of the negotiation.

Recap of Prior Negotiation Session

Consultant John Nelson reviewed discussions that took place at the April 28th session. The parties then approved the minutes of the prior session and took up the following.

Final Conservation Issues Language

Randy Poole stated SCWA had one minor change to suggest regarding the Conservation Issues language agreed to by the parties at the last session, namely to correct the language in the first sentence of proposed Section 4.18 (a) to read “water contractor” vs. “party”.

The final language for Conservation issues is shown in Attachment B.

Feedback on Governance Issues

Randy Poole, presenting SCWA’s position on suggested Governance issues, suggested the following:

1. Changing the frequency of meetings with the Board’s liaison to “at least one meeting per calendar vs. “two meetings per year”.
2. Including language documenting the vote of WAC members on non-advisory matters (i.e. matters where the power to decide the matter are provided to the WAC by the agreement).
3. Deletion of sentence in Section 1.8 (a) regarding establishment and maintenance of web site.
4. Deletion of subparagraph 1.8 (b) pertaining to provision of information requested by WAC and reference to external audit process.

The parties accepted Item 1 on a (5/3/0) vote and concurred on the other Items with a 8/0/0 vote, it being understood that handling of requests for reports, etc. would be covered by changes being considered for another section (Section 2.3 (a)). After further discussion it was agreed Mr. Poole and Mr. Nelson would meet and work up proposed final language on Governance issues for consideration at the next negotiation session.

Agency Comment on Appellate Court Ruling on Transmission System EIR

It was noted that the May 16th Press Democrat reported the appellate court had determined the Transmission System EIR inadequate as it failed to include analysis of the impacts of pending/potential changes in Eel River diversions. Mr. Poole reported it appears SCWA will have to pay litigant costs and prepare a supplemental document containing updated flow estimates. He estimated it could take 2 to 3 years to complete the process. Mike Heally expressed concern about potential delay in constructing the south transmission system aqueduct. Mr. Poole said he now estimates the earliest construction start date as 2005 with completion in 2007 or 2008.

Status of Proposed Letters to MMWD

Chris DeGabriele reported that another meeting was held with MMWD officials and interested WAC representatives on May 12, 2003. He said disagreement persisted on the WAC’s position on certain economic considerations and SCWA’s position that MMWD needs to agree to participate in the consultation process currently underway involving the

SCWA and federal agencies charged with seeing that the provisions of the Endangered Species Act are carried out – particularly as it relates to Coho salmon. A detailed discussion ensued. The consensus of the WAC was for Mr. DeGabriele to circulate the final draft of the letter to the WAC. Santa Rosa said it wanted its policy makers to review the letter. It was decided the letter with Santa Rosa’s comments would be placed on the next negotiation session agenda.

Continued Negotiation of 21 Key Issues in Contention between SCWA and WAC

Mr. Nelson presented his proposed changes in concept language as reached by consensus of the parties at the last negotiation session for the five Part I issues and Items 1 through 4 of the 16 Part II issues (refer to Attachment C – the attachment provided for the May 19th session.). Discussion then ensued with resultant outcome as follows.

Part I (Issues SCWA felt were outside the proper scope of the new agreement.):

Framework Issue A - Changes accepted by 9/0/0 vote. Regarding the associated proposed language for funding set forth in Section 2.3 (a), it was agreed that a separate charge would be included in the new agreement if MMWD is added as a signer and that the charge would be included as part of the common facilities charge or O&M charge if they were not a signer.

Framework Issue F – With language change suggested by Chris DeGabriele (substitution of “and other watershed associations” for “and North Bay Watershed Association”), accepted by 8/1/0 vote.

Framework Issue I – This issue, pertaining to conduct of groundwater studies requested by WAC, involved much discussion and suggestions. Consensus was to have Mr. Poole and Mr. Nelson rework this language for consideration at the next session.

Framework Issue S - It was agreed this issue has been resolved as part of the deliberations on Governance issues.

Framework Issue EE - It was agreed a goal statement on protecting water quality of the Russian River would be drafted and included in a recital at the beginning of the new agreement.

Part II (SCWA Framework Issues):

Item 1 – Agreed to defer discussion until language being prepared by SCWA’s consul could be reviewed at the next session.

Item 2 – This issue dealt with use and funding of recycled water projects that reduce demand for potable water from the aqueduct system. Much of the discussion centered on how revenues from the proposed new Recycle Water Charge would be used – particularly proper consideration of the list of local projects (LR/T2 projects) developed pursuant to the MOU regarding Interim Impairment by the subcommittee lead by Chris DeGabriele. It was agreed that Messer’s, DeGabriele, Poole and Nelson would work on this and present new concept language at the next session.

Item 3 - It was agreed this issue was resolved as part of the deliberations on Conservation issues.

Item 4 - Regarding SCWA's position that a presentation need to be made before SCWA Directors for any request to increase the annual cap contained in the entitlement section, Mr. Poole said the bilateral and automatic approval of a new cap justified by a changed General Plan and contained in the existing agreement (refer to last two sentences in Section 1.6 of the Eleventh Amended Agreement) could no longer be accommodated under legislation passed in recent years. He said he would provide water contractors with a letter laying out the requirements of making such a change. The process would necessarily apply to the new agreement as well.

Items 5 through 16 – Time being spent, these were left to take up at the next session.

There was no closing public comment. During the session Brenda Adelman said the language resolved on regarding Framework Issue A did not include important language originally proposed.

Follow-up Tasks for Next Session

1. Recap of May 19th Negotiation Session (Nelson).
2. Review and consider approval of final Governance language (Nelson)
3. Review and consider approval of sending letter to MMWD (DeGabriele)
4. Consider feedback on proposed language re. Key Contention Issues discussed as of the close of the May 19th session.
5. Continued Negotiation of remaining Key Contention Issues.

Next Negotiation Session

Time and Date: 9:00 AM-12:00 PM, June 23, 2003
Place: Santa Rosa's Laguna Treatment Plant

Attachment A

Attendees Of Water Advisory Committee Negotiation Meeting May 19, 2003

Attendees:

- Chris Sliz, City of Santa Rosa
- Jane Bender, City of Santa Rosa
- Virginia Porter, City of Santa Rosa
- John Nelson, JONWRM
- Carl Leivo, City of Rohnert Park
- Chris DeGabriele, North Marin Water District
- Syed Rizvi, North Marin Water District
- Al Bandur, City of Sonoma
- Mike Fuson, City of Sonoma
- Toni Bertolero, City of Cotati
- Janet Orchard, City of Cotati
- Ron Theisen, Marin Municipal Water District
- Pam Nicolai, Marin Municipal Water District
- Steve Phelps, Marin Municipal Water District
- Paul Berlant, Town of Windsor
- Matt Mullan, Town of Windsor
- Lee Harry, Valley of the Moon Water District
- Mike Ban, City of Petaluma
- Mike Healy, City of Petaluma
- Randy Poole, Sonoma County Water Agency
- Tim Smith, Sonoma County Water Agency

Public Attendees:

- Brenda Adelman, RRWPC
- Don McEnhill, League of Women Voters
- Bob Anderson, United Winegrowers